

UNITED STATES DISTRICT COURT

DISTRICT OF SOUTH DAKOTA

NORTHERN DIVISION

FILED

DEC 21 2017


Clerk

NICHOLAS SHANE ADAMS,

1:17-CV-01013-CBK

Plaintiff,

ORDER

vs.

ROBERTS COUNTY, EMPLOYER AT
ROBERTS CO. JAIL; JAY TASA,
SHERIFF AT ROBERTS COUNTY JAIL;
AND MELESSIA MEDBERRY, JAIL
ADMINISTRATOR AT ROBERTS CO.
JAIL;

Defendants.

Plaintiff filed this action pursuant to 42 U.S.C. § 1983 against Roberts County, the Roberts Count Sheriff and the Roberts County Jail Administrator. He contends that defendants failed to attend to his serious medical needs when he had seizures while detained at the Roberts County jail.

Plaintiff filed an application to proceed without the prepayment of the filing fee. Under the Prison Litigation Reform Act, “if a prisoner brings a civil action or files an appeal *in forma pauperis*, the prisoner shall be required to pay the full amount of a filing fee.” 28 U.S.C. § 1915(b)(1). Plaintiff must pay the full \$400 filing fee notwithstanding whether or not the matter is subsequently dismissed as frivolous after review under 28 U.S.C. § 1915(e)(2). A prisoner must pay, as an initial partial filing fee, 20% of the greater of the average monthly deposits to the prisoner’s account or the average monthly balance of the prisoner’s account for the last six months. 28 U.S.C. § 1915(b)(1)(A) and (B). The Court finds that plaintiff is required to make an initial partial filing fee of \$6.93.

On May 31, 2017, the Clerk of Courts sent to the plaintiff a letter notifying plaintiff of the opening of his case and with further instructions. That letter was returned to sender as "unable to forward." Plaintiff has not provided the Clerk with a current address.

Fed. R. Civ. P. 41(b) authorizes the dismissal of an action for failure to prosecute. The district court may dismiss a case *sua sponte* for failure to prosecute as part of its inherent case-management powers. Sterling v. United States, 985 F.2d 411, 412 (8th Cir. 1993). Plaintiff has failed to notify the Court of his address and has otherwise failed to prosecute this action. Based upon the foregoing,

IT IS ORDERED:

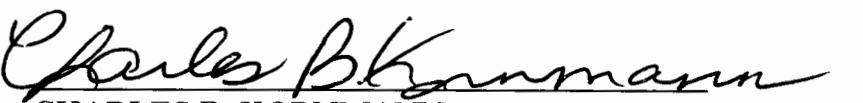
1. Plaintiff's application, Doc 2, to proceed without the prepayment of the filing fee is granted.

2. Plaintiff is required by the Prison Litigation Reform Act, 28 U.S.C. § 1915, to pay the \$400.00 filing and docketing fees. The institution having custody of the plaintiff is hereby directed to forward to the U.S. District Court Clerk's office the initial partial filing fee of \$6.93. Whenever the amount in plaintiff's trust account exceeds \$10.00, monthly payments that equal 20% of the funds credited the preceding month to the plaintiff's trust account shall be forwarded to the U.S. District Court Clerk's office pursuant to 28 U.S.C. § 1915(b)(2), until the \$400.00 filing fee is paid in full.

3. Plaintiff shall pay the initial filing fee and notify the Court of his new mailing address on or before January 22, 2018. Failure to do so will result in dismissal for failure to prosecute.

DATED this 20th day of December, 2017.

BY THE COURT:


CHARLES B. KORNMANN
United States District Judge